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SENATE

{ REPORT
105-219

TROPICAL FOREST CONSERVATION ACT OF 1998

JUNE 22, 1998.—Ordered to be printed

Mr. HELMS, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany S. 1758]

The Committee Foreign Relations, to which was referred S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

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BACKGROUND AND PURPOSE

The United States has a significant national interest in protecting tropical forests in developing countries. Twenty five percent of prescription drugs come from tropical forests. The United States National Cancer Institute has identified over 3000 plants that are active against cancer. Seventy percent of them can be found in rain forests. Tropical forests regulate the hydrological cycle on which world agriculture depends. The genetic diversity contained in tropical forests is also important for plant breeding, accounting for half of all the gains in agricultural yields from 1930 to 1980. When the U.S. corn blight hit in the 1970s, an answer was found by breeding for resistance using heritage strains from the wild. Tropical forests

serve as carbon sinks, storing carbon to mitigate the potential effects of the increase in greenhouse gases on the world's climate.

Forests are estimated to cover 8.5 billion acres or 27 percent of the total land area of the world. Half of these forests are tropical forests in the developing world. From 1980 to 1995, the developing world lost 540 million acres of its natural forests, an average of 37 million acres per year.

It has been estimated that approximately 5 million acres of forests in the developing world are destroyed by fire every year. This threat has been increased not only by drought conditions but by the inappropriate clearing of natural forests for agricultural production that cannot be sustained.

The Tropical Forest Conservation Act is designed to help protect the world's significant tropical forests through "debt-for-nature" mechanisms.

The first major debt-for-nature swap was arranged by Conservation International (CI) in 1987 using a \$100,000 grant from the Frank Weeden Foundation to purchase \$650,000 in debt owed by the Bolivian Government to a commercial creditor. CI agreed to cancel that debt in return for the Bolivian Government's willingness to protect 3.7 million acres of what became the Beni Biosphere Reserve and, in conjunction with the U.S. Agency for International Development (USAID), to endow a fund to help manage that reserve.

Other international environmental organizations such as the World Wildlife Fund and The Nature Conservancy facilitated similar debt-for-nature swaps in Costa Rica, Ecuador, Madagascar and the Philippines. They proved to be an effective way of leveraging scarce conservation dollars. For example, in a major debt swap in Costa Rica, commercial debt was bought back at a discounted value of fourteen cents on the dollar. In return, the government of Costa Rica agreed to endow an environmental fund at the rate of seventy cents for every dollar of its commercial debt which was canceled.

In 1989, the Global Environmental Protection Assistance Act, co-authored by Senator Biden and Senator Lugar, was enacted into law as Title VII A of the International Finance and Development Act of 1989 (Public Law 101-240, December 19, 1989). That Act authorized USAID to use its funds for debt-for-nature swaps. Under the authority of the Act, USAID has used \$95 million of its funds to establish environmental endowments totaling \$146 million in Costa Rica, Honduras, Indonesia, Jamaica, Madagascar, Mexico, Panama and the Philippines.

President Bush's Enterprise for the Americas Initiative (EAI) carried forward this linkage between debt reduction and the generation of local funds to protect the environment. The EAI has provided \$876 million in debt relief and \$154 million in local endowments for environmental and child survival at a federal cost of \$90 million in seven countries in Latin America and the Caribbean: Argentina, Bolivia, Chile, Columbia, El Salvador, Jamaica and Uruguay.

The Tropical Forest Conservation Act applies to bilateral governmental debt resulting from concessional loans made under the Foreign Assistance Act of 1961 and credits granted under the Agricultural Trade and Assistance Act of 1954. It is consistent with estab-

lished Treasury Department practices as well as the Federal Credit Reform Act of 1990.

The Act extends the debt-for-nature mechanism of the EAI to the protection of significant tropical forests in lower and middle income developing countries throughout the world, not just those in Latin America and the Caribbean. Unlike the EAI, however, grants under the Tropical Forest Conservation Act must be directed toward protection of tropical forests, not the broader purposes of environmental protection and child survival as under the EAI. Furthermore, the Tropical Forest Conservation Act authorizes the use of two new, no cost “debt-for-nature” models, the Buy Back option and Debt Swap option.

Under the Buy Back option, an eligible country would be able to buy back its debt at its net present value in exchange for its willingness to place an additional forty percent of this value in local currency in a tropical forest fund. Suppose, for example, that the net present value of the country’s debt was fifty cents on the dollar. In return for being allowed to buy back its debt at its net present value, the developing country would have to agree to place forty percent of that value, or twenty cents, into a fund to protect its tropical forests.

Under the Buy Back option, there would be no cost to the United States Government since the debt is being bought back at its net present value as determined under section 502 (5) of the Federal Credit Reform Act of 1990.

Second, the Act authorizes a Debt Swap option under which an individual or organization would be able to engage in Debt-for-Nature Swaps with lower income developing nations. These purchasers would work with the United States government, but would use nonfederal funds to assist these developing countries to reduce or buy back their bilateral debt owed to the United States Government in return for their placing local currencies in a fund to protect their tropical forests.

Under this option, there would also be no cost to the United States Government because the subsidy involved would come from these purchasers.

Third, the Act authorizes a debt reduction mechanism based upon the Enterprise for the Americas Initiative. Under the EAI model, a new reduced debt instrument is negotiated and the developing country is allowed to place the interest on the reduced debt instrument in a tropical forest fund.

When the EAI option is exercised, the Act authorizes appropriations to compensate the United States Treasury for the reduction in the revenue stream which occurs. This is equivalent to the difference between the net present value of the old debt instrument and the net present value of the new debt instrument. However, as in the case of the EAI, these funds would be effectively leveraged because the amounts placed by an eligible country in its tropical forest fund would exceed the revenues foregone by the U.S. Treasury.

Within each developing country, the tropical forest fund would be administered by a tropical forest board consisting of one or more U.S. government officials; one or more individuals appointed by the recipient country’s government; and representatives of environ-

mental, community development, scientific, academic and agro-forestry organizations of the host country. The nongovernmental members must constitute a majority of the board and only in exceptional circumstances could grants be made to the government.

Oversight of this program would be accomplished through expanding the existing Enterprise for the Americas Board by two federal and two nongovernmental representatives so that the Board would consist of thirteen members, seven of whom would represent federal agencies involved in the preservation, restoration and sustainable uses of tropical forests and six of whom would represent nongovernmental organizations and experts engaged in these activities. This Board would annually review the programs, operations and fiscal audits of each administering body and would have veto power over all grants of \$100,000 or more.

To be eligible for assistance, a lower or middle income developing country with a tropical forest must meet the same criteria as established by Congress under the EAI. These criteria are that the government must be democratically elected, has not repeatedly provided support for acts of international terrorism, is not failing to cooperate on international narcotics control matters, does not engage in a consistent pattern of gross violations of internationally recognized human rights and has participated in any needed investment reforms.

The President would have to notify the appropriate congressional committees at least fifteen days in advance of his intention to designate a country as an eligible country.

This legislation provides an incentive for the lower and middle income developing nations to reduce their debt owed to the United States government. It protects outstanding tropical forests throughout the world. And it stretches the limited federal dollars which are available to assist in this effort, therefore making an effective use of international environmental assistance.

COMMITTEE ACTION

The Committee on Foreign Relations considered S. 1758 on May 19, 1998 and ordered the bill, as amended, favorably reported by a voice vote.

SECTION BY SECTION ANALYSIS

Sec. 801. Short Title

This section allows this section of the Foreign Assistance Act to be cited as the "Tropical Forest Conservation Act of 1998".

Sec. 802. Findings and Purposes

This section makes the following findings by Congress:

- (1) It is the established policy of the United States to support and seek protection of tropical forests around the world.
- (2) Tropical forests provide a wide range of benefits to humankind by—
 - (A) harboring a major share of the Earth's biological and terrestrial resources, which are the basis for developing pharmaceutical products and revitalizing agricultural crops;

(B) playing a critical role as carbon sinks in reducing greenhouse gases in the atmosphere, thus moderating potential global climate change; and

(C) regulating hydrological cycles on which far-flung agricultural and coastal resources depend.

(3) International negotiations and assistance programs to conserve forest resources have proliferated over the past decade, but the rapid rate of tropical deforestation continues unabated.

(4) Developing countries with urgent needs for investment and capital for development have allocated a significant amount of their forests to logging concessions.

(5) Poverty and economic pressures on the populations of developing countries have, over time, resulted in clearing of vast areas of forest for conversion to agriculture, which is often unsustainable in the poor soils underlying tropical forests.

(6) Debt reduction can reduce economic pressures on developing countries and result in increased protection for tropical forests.

(7) Finding economic benefits to local communities from sustainable uses of tropical forests is critical to the protection of tropical forests.

The section also sets out the following purposes of the Act:

(1) to recognize the values received by United States citizens from protection of tropical forests;

(2) to facilitate greater protection of tropical forests (and to give priority to protecting tropical forests with the highest levels of biodiversity and under the most severe threat) by providing for the alleviation of debt in countries where tropical forests are located, thus allowing the use of additional resources to protect these critical resources and reduce economic pressures that have led to deforestation;

(3) to ensure that resources freed from debt in such countries are targeted to protection of tropical forests and their associated values; and

(4) to rechannel existing resources to facilitate the protection of tropical forests.

Sec. 803. Definitions

This section defines the following terms used in the Act:

(1) **Administering body.**—The term “administering body” means the entity provided for in section 809(c).

(2) **Appropriate congressional committees.**—The term “appropriate congressional committees” means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) **Beneficiary country.**—The term “beneficiary country” means an eligible country with respect to which the authority of section 806(a)(1), section 807(a)(1), or paragraph (1) or (2) of section 808(a) is exercised.

(4) Board.—The term “Board” means the board referred to in section 811.

(5) Developing country with a tropical forest.—The term “developing country with a tropical forest” means—

(A)(i) a country that has a per capita income of \$725 or less in 1994 United States dollars (commonly referred to as “low-income country”), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; or

(ii) a country that has a per capita income of more than \$725 but less than \$8,956 in 1994 United States dollars (commonly referred to as “middle-income country”), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; and

(B) a country that contains at least one tropical forest that is globally outstanding in terms of its biological diversity or represents one of the larger intact blocks of tropical forests left, on a continental or global scale.

(6) Eligible country.—The term “eligible country” means a country designated by the President in accordance with section 805.

(7) Tropical forest agreement.—The term “Tropical Forest Agreement” or “Agreement” means a Tropical Forest Agreement provided for in section 809.

(8) Tropical forest facility.—The term “Tropical Forest Facility” or “Facility” means the Tropical Forest Facility established in the Department of the Treasury by section 804.

(9) Tropical forest fund.—The term “Tropical Forest Fund” or “Fund” means a Tropical Forest Fund provided for in section 810.

Sec. 804. Establishment of the Facility

This section establishes the Tropical Forest Facility in the Department of the Treasury.

The Committee encourages the Treasury Department to show flexibility in the administration and operation of the Tropical Forest Facility, Tropical Forest Funds and Tropical Forest Agreements to limit bureaucracy and to maximize efficiencies. It may be appropriate to consolidate the work of, share resources with, and otherwise coordinate the Tropical Forest Facility and the EAI Facility within the Treasury Department.

However, because the eligible activities under this legislation are different from the Enterprise for the Americas Initiative and other programs, it is essential that funds for this program remain segregated from funds for any other program. Tropical Forest Agreements must also be separate and apart from EAI Framework Agreements for the same reasons.

Sec. 805. Eligibility For Benefits

This section establishes the eligibility requirements for benefits under the Act. Subsection (a)(1) requires the developing country with a tropical forest to meet the requirements applicable to Latin

American or Caribbean countries under paragraphs (1) through (5) and (7) of section 703(a) of the Foreign Assistance Act.

These paragraphs contain several requirements. First, the government must be democratically elected. Second, the government is prohibited from: repeatedly supporting acts of international terrorism; failing to cooperate on international narcotics control matters; and engaging in violations of internationally recognized human rights. Finally, the government must receive approval for or (in exceptional cases) make significant progress towards an IMF standby arrangement; have a structural or sectoral adjustment loan of the World Bank in place (unless the President determines that the standby or adjustment requirements could reasonably be expected to have significant adverse social or environmental effects); and, as appropriate, have reached an agreement with commercial bank lenders on a satisfactory lending program.

Subsection (a)(2) requires the developing country to have put in place major investment reforms, as evidenced by the conclusion of a bilateral investment treaty with the United States, implementation of an investment sector loan with the Inter-American Development Bank, World Bank-supported investment reforms, or other measures, as appropriate. The Committee intends that such reforms would be consistent with the goals of the Act.

Subsection (b)(1) provides that, consistent with subsection (a), the President shall determine which countries are eligible to receive benefits. Subsection (b)(2) requires that the President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

Sec. 806. Reduction of Debt Owed to the United States as a Result of Concessional Loans Under the Foreign Assistance Act of 1961

Subsection (a) provides the President with the authority to reduce debt owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of concessional loans made to an eligible country by the United States under development assistance (part I of the FAA) or the economic support fund (chapter 4 of part II), or predecessor foreign economic assistance legislation.

Subsection (a)(2) authorizes appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section in the following amounts: \$25,000,000 for fiscal year 1999, \$75,000,000 for fiscal year 2000, and \$100,000,000 for fiscal year 2001.

Under subsection (3)(A) debt reductions under this section are not considered to be assistance for purposes of any provision of law limiting assistance to a country. Subsection (3)(B) provides that this authority may be exercised notwithstanding requirements for the full repayment of debts to the U.S. under section 620(r) of the FAA or section 321 of the International Development and Food Assistance Act of 1975.

Subsection (b) requires the Facility to carry out any debt reduction by exchanging new obligations for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1). Subsection (2)(A) requires the Facility to notify

AID (the agency primarily responsible for administering part I of the FAA) of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

Subsection (c) provides that the provisions relating to repayment of principal in U.S. dollars (section 705 of the FAA) and that interest be charged at concessional rates (section 706 of the FAA) be applied to debt reduction under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under the EAI (section 704(a)(1) of the FAA).

Sec. 807. Reduction of Debt Owed to the United States as a Result of Credits Extended Under Title I of the Agricultural Trade Development and Assistance Act of 1954

This section follows the example of section 806 but concerns debt extended under Title I of the Agricultural Trade Act of 1954. Subsection (a)(1) provides the authority to the President to reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of any credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to a country eligible for benefits from the Facility.

Subsection (a)(2) authorizes the appropriations of the following amounts for cost as defined under section 502(5) of the Federal Credit Reform Act of 1990: \$25,000,000 for fiscal year 1999, \$50,000,000 for fiscal year 2000, and \$50,000,000 for fiscal year 2001. Subsection (b)(2) requires the Facility to notify the Commodity Credit Corporation of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

Subsection (c) provides that the provisions relating to repayment of principal in U.S. dollars (section 605) and that interest be charged at concessional rates (section 606) be applied to debt reduction under subsection (a) (1) in the same manner as such terms and conditions apply to the reduction of debt under the EAI section 604(a)(1) of the Agricultural Trade and Assistance Act of 1954 (section 604(a)(1) or 7 U.S.C. 1738c).

Sec. 808. Authority to Engage in Debt-For-Nature Swaps and Debt Buy Backs

This section permits debtors who can afford to do so to repurchase their debts at their net present value in return for financial commitments to protect their tropical forests.

Under subsection (a), the President may, in accordance with this section, sell to any eligible purchaser described in subparagraph (B) any concessional development assistance loans described in section 806(a)(1) or any agricultural credits described in section 807(a)(1), or on receipt of payment from an eligible purchaser described in subparagraph (B), reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt-for-nature swap to support eligible activities described in section 809(d).

Under subsection (B), loans or credits may be sold, reduced, or canceled under subparagraph (A) only to a purchaser who presents

plans satisfactory to the President for using the loan or credit for the purpose of engaging in debt-for-nature swaps to support eligible activities described in section 809(d). Subsection (C) requires that before the sale, or any reduction or cancellation of debt, that the President consult with the country concerning the amount of loans or credits to be sold, reduced, or canceled and their uses for debt-for-nature swaps to support eligible activities described in section 809(d). Subsection (D) limits the authorization of appropriations for such purchases to the amounts authorized to be appropriated under sections 806(a)(2) and 807(a)(2).

Under subsection (2) the President may sell to any eligible country any development assistance concessional loans (described in section 806(a)(1)) or any agricultural credits (described in section 807(a)(1)). On receipt of payment from an eligible country, the President may reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt buy back by an eligible country of its own qualified debt. The President may only do this if the eligible country uses an additional amount of its local currency which is not less than the lesser of the difference between the price paid for such debt and the face value of such debt or 40 percent of the price paid for such debt by such eligible country to support eligible activities described in section 809(d).

For example, if an eligible country owed the U.S. government \$1 million in development loan debt with a net present value of \$600,000, the President could sell that debt to that country for \$600,000 only if it committed to provide at least the lesser of the difference between the purchase price and the face value (\$400,000) or 40 percent of the price paid (\$240,000). In sum, the eligible country could purchase \$1 million of its debt if it paid the U.S. government \$600,000 and committed at least \$240,000 to tropical forest conservation projects managed under an international agreement specified under this Act.

The Committee intends that all sales under this subsection be at no "cost" to the federal government as that term is defined by section 502 (5) of the Federal Credit Reform Act of 1990.

Subsection (3) authorizes the President to establish the terms and conditions under which loans and credits may be sold, reduced, or canceled pursuant to this section. Subsection (5) requires the Facility to notify the administrator of USAID or the Commodity Credit Corporation (CCC) of eligible purchasers described in paragraph (1)(B) that the President has determined to be eligible under paragraph (1), and shall direct USAID or the CCC to carry out the sale, reduction, or cancellation of a loan. USAID or the CCC would then make adjustments in its accounts to reflect the sale, reduction, or cancellation.

Subsection (b) requires the proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section to be deposited in the United States Government account or accounts established for the repayment of such loan.

Sec. 809. Tropical Forest Agreement

This section authorizes the Secretary of State to enter into a Tropical Forest Agreement with any eligible country concerning the operation and use of the Fund for that country. The Secretary must

consult with the Board in accordance with section 811. These agreements must contain the requirements contained in section 708(b) of the FAA (relating to interest payments, prompt disbursements, conservation of value, purposes of the agreement and enforcement terms), applied in the same manner as such requirements apply to an EAI Americas Framework Agreement.

Funds disbursed from the Fund in each beneficiary country must be administered by a body constituted under the laws of that country. The administering body must consist of one or more individuals appointed by the United States Government; one or more individuals appointed by the government of the beneficiary country; and individuals who represent a broad range of environmental nongovernmental organizations of, or active in, the beneficiary country; local community development nongovernmental organizations of the beneficiary country; and scientific academic, or agroforestry organizations of the beneficiary country. A majority of the members of the administering body must be representatives of environmental nongovernmental organizations of, or active in the beneficiary country, local community development nongovernmental organizations of the beneficiary country and scientific, academic or agroforestry organizations of the beneficiary country.

The Committee intends that individuals who are appointed to the local administering body described in section 809(c)(iii)(III) should represent organizations with expertise and experience in the conservation, preservation, restoration, and sustainable economic uses of tropical forests that lead to their long-term protection and the maintenance of their biological diversity.

The required responsibilities of the administering bodies are contained in section 708(c)(3) of the FAA (relating to the receipt of grant proposals, program oversight, annual audits, access by the U.S. General Accounting Office, and annual reports) and apply in the same manner as such requirements apply to an administering body described in section 708(c)(1) of the FAA.

Subsection (d) details the eligible activities that can be supported. The administering bodies may provide grants to preserve, maintain, and restore the tropical forests in the beneficiary country, including one or more of the following activities:

- (1) Establishment, restoration, protection, and maintenance of parks, protected areas, and reserves,
- (2) Development and implementation of scientifically sound systems of natural resource management, including land and ecosystem management practices,
- (3) Training programs to strengthen conservation institutions and increase scientific, technical, and managerial capacities of individuals and organizations involved in conservation efforts,
- (4) Restoration, protection, or sustainable use of diverse animal and plant species,
- (5) Research and identification of medicinal uses of tropical forest plant life to treat human diseases and illnesses and health related concerns.
- (6) Mitigation of greenhouse gases in the atmosphere, and
- (7) Development and support of the livelihoods of individuals living in or near a tropical forest, including the cultures of

such individuals, in a manner consistent with protecting such tropical forest.

In conjunction with these activities, a beneficiary country is encouraged to enforce its laws against illegal logging and illegal trade in tropical timber.

The Committee intends that the only activities which are eligible to be funded by administering bodies under this Act are those which directly relate to the preservation, conservation, maintenance and restoration of tropical forests. The Committee recognizes that funds for foreign assistance programs described as environmental or child survival have occasionally been used for family planning or population control programs. The Committee does not consider family planning or population control activities as legitimate activities under the Act.

Subsection (e) specifies eligible grant recipients who are:

- (A) nongovernmental environmental, conservation, and indigenous people organizations of, or active in, the beneficiary country;
- (B) other appropriate local or regional entities of, or active in, the beneficiary country; and
- (C) in exceptional circumstances, the government of the beneficiary country.

Subsection (f) provides that any grant of more than \$100,000 from a Fund is also subject to a veto either by the Government of the United States or the government of the beneficiary country.

Subsection (g) provides that if a government ceases to meet the eligibility requirements for countries set forth in section 805(a), as determined by the President pursuant to section 805(b), then grants from the Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 805(a).

Sec. 810. Tropical Forest Fund

This section requires that each beneficiary country that enters into a Tropical Forest Agreement under section 809 shall be required to establish a Tropical Forest Fund to receive payments of interest on new obligations undertaken by that beneficiary country under this part.

Subsection (b) requires that the terms and conditions shall apply to the Fund in the same manner as such terms as conditions apply to an Enterprise for the Americas Fund under section 707 of the FAA (relating to the deposit of local currencies not considered as assistance, the investment of funds not expended and the requirement that funds be disbursed only pursuant to the agreement).

Sec. 811. Board

This section expands the duties of the Enterprise for the Americas Board which, in addition to carrying out the responsibilities of the Board under section 610 (c) of the FAA, will carry out the duties described in subsection (c) of this section for the purposes of this part. The Act requires the addition of four members to the EAI board appointed by the President as follows:

(A) Two representatives from the United States Government, one of which shall be a representative of the International Division of the U.S. Forest Service.

(B) Two representatives from private nongovernmental environmental, scientific, agricultural and academic organizations with experience and expertise in preservation, maintenance, sustainable uses and restoration of tropical forests.

This section provides, notwithstanding section 610(b)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(2)) that the Enterprise for the Americas Board shall be headed by a chairperson who shall be appointed by the President from among the representatives appointed under section 610(b)(1)(A) of such Act or paragraph (1)(A) of this subsection. The duties of the Board are expanded to include advising the Secretary of State on the negotiations of Tropical Forest Agreements; ensure, in consultation with the appropriate parties, that suitable administering body is identified for each fund; and review the programs, operations, and fiscal audits of each administering body.

Under the Enterprise for the Americas Initiative, individual Environmental Framework Agreements limit administrative expenses to a certain percentage (typically 10 percent) of the total annual interest payments made into the account by the host country. The purpose of this cap was to minimize the risk that funds would be diverted from environmental (and child survival) projects to overhead. The Committee understands that six of the seven countries participating in Enterprise for the Americas Initiative have a cap on administrative expenses equal to or less than 10 percent of the total annual interest payments. The Committee also understands that this administrative cap can be changed only by amending the bilateral agreements through an exchange of notes between the U.S. Government and the beneficiary country.

It is the intention of the Committee that administrative expenses are generally not to exceed 10 percent of the total annual interest payments made into a Tropical Forest Fund and that such cap should be included in all Tropical Forest Agreements with the beneficiary country.

In order to avoid duplication of effort and to maximize efficiencies, the bill provides that the EAI Board shall have expanded authority and membership to oversee the operational implementation of the Tropical Forest Agreements and Funds.

The Committee intends that the EAI Board actively oversee the operations of each administering body to ensure that only eligible activities are funded and that there is full compliance bodies with the audit and reporting requirements of the Act.

The Committee intends that the two additional individuals who are appointed to the Enterprise for the Americas Board under section 811(b)(1)(B) should represent organizations with expertise in the preservation, maintenance, restoration, and sustainable economic uses of tropical forests that lead to their long-term protection and maintenance of their biological diversity.

Sec. 812. Consultations With the Congress

This section requires the President to consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this part and the eligibility of countries for benefits from the Facility under this part.

Sec. 813. Annual Reports to the Congress

Section (a) requires the President to transmit a report, not later than December 31 of each year, concerning the operation of the Facility for the prior fiscal year. This report must include a description of the activities undertaken by the Facility during the previous fiscal year, a description of any Agreement entered into under this part, a report on any Funds that have been established under this part and on the operations of such Funds and a description of any grants that have been provided by administering bodies pursuant to Agreements under this part.

Subsection (b) requires that not later than December 15 of each year, each member of the Board shall be entitled to receive a copy of the report required in subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this part by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.

The Committee intends that these annual reports shall include a clear description of each activity funded by each administering body, a progress report on activities previously funded and the conclusions of the annual independent audit required of each Tropical Forest Fund.

COST ESTIMATE

In accordance with Rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, the Committee provides the following estimate of the cost of this legislation prepared by the Congressional Budget Office. The Committee does not intend that debt be bought back at less than "cost" as determined by section 502(5) of the Federal Credit Reform Act of 1990 and will offer a technical amendment to resolve the pay-as-you-go problem referred to in the CBO letter.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C. 20515.

Hon. JESSE HELMS,
Chairman, Committee on Foreign Relations,
United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1758, the Tropical Forest Conservation Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Joseph C. Whitehill, who can be reached at 226-2840.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

cc: Hon. JOSEPH R. BIDEN, JR.,
Ranking Minority Member.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1758.
2. Bill title: Tropical Forest Conservation Act of 1998.
3. Bill status: As ordered reported by the Senate Committee on Foreign Relations on May 19, 1998.

4. Bill purpose: S. 1758 would authorize the Secretary of State to negotiate agreements with eligible countries to create local funds administered by local boards with the authority to make grants to preserve, maintain, and restore tropical forests. The local funds would receive a stream of interest payments generated by modifying the terms of outstanding debt owed to the United States for development assistance or food aid. In addition, S. 1758 would authorize the President to sell development assistance or food-aid debt to eligible investors to use in debt-for-nature swaps. The bill would authorize the appropriation of \$325 million over the fiscal years 1999–2001 for the cost of such modifications and sales. CBO estimates that outlays totaling that amount would be recorded over the 1999–2003 period.

The bill would also authorize the President to sell debt back to an eligible country, notwithstanding any other provision of law and without appropriation action. Sales to eligible countries would therefore increase direct spending to the extent that sale prices are less than the value of the debt. CBO estimates that this provision would have no cost in 1999 but that costs would total about \$150 million over the 2000–2006 period. Because S. 1758 would affect direct spending, pay-as-you-go procedures would apply.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), and would not affect the budgets of state, local, or tribal governments.

5. Estimated cost to the federal government: The estimated budgetary impact of S. 1758 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs).

[by fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
Spending Subject to Appropriation						
Spending under current law for debt restructuring:						
Budget authority ¹	27	0	0	0	0	0
Estimated outlays	31	15	1	0	0	0
Proposed changes:						
Authorization level	0	50	125	150	0	0
Estimated outlays	0	23	81	133	81	8
Spending under S. 1758 for debt restructuring:						
Authorization level ¹	27	50	125	150	0	0
Estimated outlays	31	38	82	133	81	8
Direct Spending						
Proposed changes:						
Estimated budget authority	0	0	25	50	35	20
Estimated outlays	0	0	25	50	35	20

¹The 1998 level is the amount appropriated for that year.

Basis of estimate: S. 1758 would authorize spending subject to appropriation action and provide indefinite authority to sell certain outstanding direct loans.

Spending subject to appropriation

The bill would authorize the appropriation of \$325 million over the fiscal years 1999–2001 for the cost of modifying debt so as to reduce principal and to divert interest payments to local conservation funds. The estimate assumes appropriation of the authorized amounts over the next three years. Those sums represent the present value of the debt that would be reduced and the interest that would be diverted to local funds. Outlays would be recorded at the time outstanding debts are modified. The estimate assumes it would take from one to three years to negotiate agreements with eligible countries and to sign bilateral agreements that cancel, reduce, or otherwise modify the debt.

S. 1758 would also authorize the President to sell development assistance or food-aid debt to eligible investors for debt-for-nature swaps. The sale of a loan asset is a loan modification as defined by the Federal Credit Reform Act. Any cost to the federal government from these sales would also be met from the amounts authorized for appropriation.

Direct spending

The bill would give the President the authority to sell debt back to an eligible country and to set terms and conditions, including price, notwithstanding any other provision of law. However, an advance appropriation would not be required to exercise this authority. Any such sale would increase budget authority and outlays to the extent that the sale prices were less than the estimated value of the loans.

The President has similar authority to engage in debt buy backs for debt-for-equity, debt-for-development, and debt-for-nature swaps, but only if appropriations are provided in advance for the cost of any modification. That authority has not been used much because of limited appropriations and little demand for unsubsidized sales. CBO estimates that the authority under the bill would not be used to a great extent unless loans were offered for sale below cost; in that case, the costs would depend on how the President would use the discretion permitted under the bill. CBO estimates that the bill would not have a cost in 1999 because of the time it would take to negotiate agreements but that costs would total about \$25 million in 2000 and about \$150 million over the 2000–2006 period. This estimate assumes debt buy-backs on only a very small proportion of eligible development and food-aid debt, which has a face value of almost \$13 billion.

7. Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
* * *	0	0	25	50	35	20	10	5	5	0	0
Changes in out- lays											
Changes in receipts ...	na	na	na	na	na	na	na	na	na	na	na

na = Not applicable.

8. Intergovernmental and private-sector impact: The bill contains no intergovernmental or private-sector mandates as defined in UMRA, and would not affect the budgets of state, local, or tribal governments.

9. Previous CBO estimate: On March 13, 1998, CBO prepared an estimate for the companion bill in the House of Representatives, H.R. 2870. All spending in that bill would be subject to appropriation, and the amounts authorized are the same as in S. 1758.

10. Estimate prepared by: Federal Costs—Joseph C. Whitehill (226–2840); Impact on State, Local, and Tribal Governments—Pepper Santalucia (225–3220); Impact on the Private Sector—Lesley Frymier (226–2940).

11. Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

EVALUATION OF REGULATORY IMPACT

In accordance with Rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the committee has concluded that there is no regulatory impact from this legislation.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic* and existing law in which no change is proposed is shown in *roman*):

FOREIGN ASSISTANCE ACT OF 1961

* * * * *

PART V—DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS

Sec. 801. Short Title.

This part may be cited as the “Tropical Forest Conservation Act of 1998”.

Sec. 802. Findings and Purposes.

(1) It is the established policy of the United States to support and seek protection of tropical forests around the world.

(2) Tropical forests provide a wide range of benefits to humankind by—

(A) harboring a major share of the Earth’s biological and terrestrial resources, which are the basis for developing

pharmaceutical products and revitalizing agricultural crops;

(B) playing a critical role as carbon sinks in reducing greenhouse gases in the atmosphere, thus moderating potential global climate change; and

(C) regulating hydrological cycles on which far-flung agricultural and coastal resources depend.

(3) International negotiations and assistance programs to conserve forest resources have proliferated over the past decade, but the rapid rate of tropical deforestation continues unabated.

(4) Developing countries with urgent needs for investment and capital for development have allocated a significant amount of their forests to logging concessions.

(5) Poverty and economic pressures on the populations of developing countries have, over time, resulted in clearing of vast areas of forest for conversion to agriculture, which is often unsustainable in the poor soils underlying tropical forests.

(6) Debt reduction can reduce economic pressures on developing countries and result in increased protection for tropical forests.

(7) Finding economic benefits to local communities from sustainable uses of tropical forests is critical to the protection of tropical forests.

(b) *Purposes.*—The purposes of this part are—

(1) to recognize the values received by United States citizens from protection of tropical forests;

(2) to facilitate greater protection of tropical forests (and to give priority to protecting tropical forests with the highest levels of biodiversity and under the most severe threat) by providing for the alleviation of debt in countries where tropical forests are located, thus allowing the use of additional resources to protect these critical resources and reduce economic pressures that have led to deforestation;

(3) to ensure that resources freed from debt in such countries are targeted to protection of tropical forests and their associated values; and

(4) to rechannel existing resources to facilitate the protection of tropical forests.

Sec. 803. Definitions.

As used in this part:

(1) *Administering body.*—The term “administering body” means the entity provided for in section 809(c).

(2) *Appropriate congressional committees.*—The term “appropriate congressional committees” means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) *Beneficiary country.*—The term “beneficiary country” means an eligible country with respect to which the authority of section 806(a)(1), section 807(a)(1), or paragraph (1) or (2) of section 808(a) is exercised.

(4) *Board*.—The term “Board” means the board referred to in section 811.

(5) *Developing country with a tropical forest*.—The term “developing country with a tropical forest” means—

(A)(i) a country that has a per capita income of \$725 or less in 1994 United States dollars (commonly referred to as “low-income country”), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; or

(ii) a country that has a per capita income of more than \$725 but less than \$8,956 in 1994 United States dollars (commonly referred to as “middle-income country”), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; and

(B) a country that contains at least one tropical forest that is globally outstanding in terms of its biological diversity or represents one of the larger intact blocks of tropical forests left, on continental or global scale.

(6) *Eligible country*.—The term “eligible country” means a country designated by the President in accordance with section 805.

(7) *Tropical forest agreement*.—The term “Tropical Forest Agreement” or “Agreement” means a Tropical Forest Agreement provided for in section 809.

(8) *Tropical forest facility*.—The term “Tropical Forest Facility” or “Facility” means the Tropical Forest Facility established in the Department of the Treasury by section 804.

(9) *Tropical forest fund*.—The term “Tropical Forest Fund” or “Fund” means a Tropical Forest Fund provided for in section 810.

Sec. 804. Establishment of the Facility.

There is established in the Department of the Treasury an entity to be known as the “Tropical Forest Facility” for the purpose of providing for the administration of debt reduction in accordance with this part.

Sec. 805. Eligibility for Benefits.

(a) *In General*.—To be eligible for benefits from the Facility under this part, a country shall be a developing country with a tropical forest—

(1) whose government meets the requirements applicable to Latin American or Caribbean countries under paragraphs (1) through (5) and (7) of section 703(a) of this Act;

(2) that has put in place major investment reforms, as evidenced by the conclusion of a bilateral investment treaty with the United States, implementation of an investment sector loan with the Inter-American Development Bank, World Bank-supported investment reforms, or other measures, as appropriate.

(b) *Eligibility Determinations*.—

(1) *In general*.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part.

(2) *Congressional notification.*—The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

Sec. 806. Reduction of Debt Owed to the United States as a Result of Concessional Loans Under the Foreign Assistance Act of 1961.

(a) Authority To Reduce Debt.—

(1) *Authority.*—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

(2) *Authorization of appropriations.*—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

- (A) \$25,000,000 for fiscal year 1999;
- (B) \$75,000,000 for fiscal year 2000; and
- (C) \$100,000,000 for fiscal year 2001.

(3) *Certain prohibitions inapplicable.*—

(A) *In general.*—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(B) *Additional requirement.*—The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

(b) Implementation of Debt Reduction.—

(1) *In general.*—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

(2) *Exchange of obligations.*—

(A) *In general.*—The Facility shall notify the agency primarily responsible for administering part I of this Act of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

(B) *Additional requirement.*—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation for the country shall be established relating to the agreement, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

(c) *Additional Terms and Conditions.*—The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 704(a)(1) of this Act:

(1) *The provisions relating to repayment of principal under section 705 of this Act.*

(2) *The provisions relating to interest on new obligations under section 706 of this Act.*

Sec. 807. Reduction of Debt Owed to the United States as a Result of Credits Extended Under Title I of the Agricultural Trade Development and Assistance Act of 1954.

(a) Authority To Reduce Debt.—

(1) *Authority.—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of any credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to a country eligible for benefits from the Facility.*

(2) *Authorization of appropriations.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—*

- (i) \$25,000,000 for fiscal year 1999;*
- (ii) \$50,000,000 for fiscal year 2000; and*
- (iii) \$50,000,000 for fiscal year 2001.*

(b) Implementation of Debt Reduction.—

(1) *In general.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).*

(2) Exchange of obligations.—

(A) *In general.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.*

(B) *Additional requirement.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation shall be established for the country relating to the agreement, and the Commodity Credit Corporation shall make an adjustment in its accounts to reflect the debt reduction.*

(c) Additional Terms and Conditions.—The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 604(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c):

(1) *The provisions relating to repayment of principal under section 605 of such Act.*

(2) *The provisions relating to interest on new obligations under section 606 of such Act.*

Sec. 808. Authority to Engage in Debt-For-Nature Swaps and Debt Buybacks.

(a) Loans and Credits Eligible for Sale, Reduction, or Cancellation.—

(1) Debt-for-nature swaps.—

(A) In general.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser described in subparagraph (B) any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible purchaser described in subparagraph (B), reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt-for-nature swap to support eligible activities described in section 809(d).

(B) Eligible purchaser described.—A loan or credit may be sold, reduced, or canceled under subparagraph (A) only to a purchaser who presents plans satisfactory to the President for using the loan or credit for the purpose of engaging in debt-for-nature swaps to support eligible activities described in section 809(d).

(C) Consultation requirement.—Before the sale under subparagraph (A) to any eligible purchaser described in subparagraph (B), or any reduction or cancellation under such subparagraph (A), of any loan or credit made to an eligible country, the President shall consult with the country concerning the amount of loans or credits to be sold, reduced, or canceled and their uses for debt-for-nature swaps to support eligible activities described in section 809(d).

(D) Authorization of appropriations.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to subparagraph (A), amounts authorized to appropriated under sections 806(a)(2) and 807(a)(2) shall be made available for such reduction of debt pursuant to subparagraph (A).

(2) Debt buybacks.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible country any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible country, reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support eligible activities described in section 809(d).

(3) Terms and conditions.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans and credits may be sold, reduced, or canceled pursuant to this section.

(4) Administration.—

(A) *In general.*—The Facility shall notify the administrator of the agency primarily responsible for administering part I of this Act or the Commodity Credit Corporation, as the case may be, of eligible purchasers described in paragraph (1)(B) that the President has determined to be eligible under paragraph (1), and shall direct such agency or Corporation, as the case may be, to carry out the sale, reduction, or cancellation of a loan pursuant to such paragraph.

(B) *Additional requirement.*—Such agency or Corporation, as the case may be, shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(b) *Deposit of Proceeds.*—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

Sec. 809. Tropical Forest Agreement.

(a) *Authority.*—

(1) *In general.*—The Secretary of State is authorized, in consultation with other appropriate officials of the Federal Government, to enter into a Tropical Forest Agreement with any eligible country concerning the operation and use of the Fund for that country.

(2) *Consultation.*—In the negotiation of such an Agreement, the Secretary shall consult with the Board in accordance with section 811.

(b) *Contents of Agreement.*—The requirements contained in section 708(b) of this Act (relating to contents of an agreement) shall apply to an Agreement in the same manner as such requirements apply to an Americas Framework Agreement.

(c) *Administering Body.*—

(1) *In general.*—Amounts disbursed from the Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

(2) *Composition.*—

(A) *In general.*—The administering body shall consist of—

(i) one or more individuals appointed by the United States Government;

(ii) one or more individuals appointed by the government of the beneficiary country; and

(iii) individuals who represent a broad range of—

(I) environmental nongovernmental organizations of, or active in, the beneficiary country;

(II) local community development nongovernmental organizations of the beneficiary country; and

(III) scientific, academic or agroforestry organizations of the beneficiary country.

(B) *Additional requirement.*—A majority of the members of the administering body shall be individuals described in subparagraph (A)(iii).

(3) *Responsibilities.*—The requirements contained in section 708(c)(3) of this Act (relating to responsibilities of the administering body) shall apply to an administering body described in paragraph (1) in the same manner as such requirements apply to an administering body described in section 708(c)(1) of this Act.

(d) *Eligible Activities.*—Amounts deposited in a Fund shall be used to provide grants to preserve, maintain, and restore the tropical forests in the beneficiary country, including one or more of the following activities:

(1) *Establishment, restoration, protection, and maintenance of parks, protected areas, and reserves.*

(2) *Development and implementation of scientifically sound systems of natural resource management, including land and ecosystem management practices.*

(3) *Training programs to strengthen conservation institutions and increase scientific, technical, and managerial capacities of individuals and organizations involved in conservation efforts.*

(4) *Restoration, protection, or sustainable use of diverse animal and plant species.*

(5) *Research and medicinal uses of tropical forest plant life to treat human diseases and illnesses and health related concerns.*

(6) *Mitigation of greenhouse gases in the atmosphere.*

(7) *Development and support of the livelihoods of individuals living in or near a tropical forest, including the cultures of such individuals, in a manner consistent with protecting such tropical forest.*

(e) *Grant Recipients.*—

(1) *In general.*—Grants made from a Fund shall be made to—

(A) *nongovernmental environmental, conservation, and indigenous people organizations of, or active in, the beneficiary country;*

(B) *other appropriate local or regional entities of, or active in, the beneficiary country; or*

(C) *in exceptional circumstances, the government of the beneficiary country.*

(2) *Priority.*—In providing grants under paragraph (1), priority shall be given to projects that are run by nongovernmental organizations and other private entities and that involve local communities in their planning and execution.

(f) *Review of Larger Grants.*—Any grant of more than \$100,000 from a Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

(g) *Eligibility Criteria.*—In the event that a country ceases to meet the eligibility requirements set forth in section 805(a), as determined by the President pursuant to section 805(b), then grants from the Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 805(a).

Sec. 810. Tropical Forest Fund.

(a) *Establishment.*—Each beneficiary country that enters into a Tropical Forest Agreement under section 809 shall be required to establish a Tropical Forest Fund to receive payments of interest on new obligations undertaken by the beneficiary country under this part.

(b) *Requirements Relating to Operation of Fund.*—The following terms and conditions shall apply to the Fund in the same manner as such terms and conditions apply to an Enterprise for the Americas Fund under section 707 of this Act:

- (1) *The provision relating to deposits under subsection (b) of such section.*
- (2) *The provision relating to investments under subsection (c) of such section.*
- (3) *The provision relating to disbursements under subsection (d) of such section.*

Sec. 811. Board.

(a) *Enterprise for the Americas Board.*—The Enterprise for the Americas Board established under section 610(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(a)) shall, in addition to carrying out the responsibilities of the Board under section 610 (c) of such Act, carry out the duties described in subsection (c) of this section for the purposes of this part.

(b) *Additional Membership.*—

(1) *In general.*—The Enterprise for the Americas Board shall be composed of an additional four members appointed by the President as follows:

(A) *Two representatives from the United States Government, including a representative of the International Forestry Division of the United States Forest Service.*

(B) *Two representatives from private nongovernmental environmental, scientific, agricultural, or academic organizations with experience and expertise in preservation, maintenance, sustainable uses, and restoration of tropical forests.*

(2) *Chairperson.*—Notwithstanding section 610(b)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(2)), the Enterprise for the Americas Board shall be headed by a chairperson who shall be appointed by the President from among the representatives appointed under section 610(b)(1)(A) of such Act or paragraph (1)(A) of this subsection.

(c) *Duties.*—The duties described in this subsection are as follows:

(1) *Advise the Secretary of State on the negotiations of Tropical Forest Agreements.*

(2) *Ensure, in consultation with—*

- (A) *the government of the beneficiary country,*
- (B) *nongovernmental organizations of the beneficiary country,*
- (C) *nongovernmental organizations of the region (if appropriate),*
- (D) *environmental, scientific, and academic leaders of the beneficiary country, and*

(E) environmental, scientific, and academic leaders of the region (as appropriate), that a suitable administering body is identified for each Fund.

(3) Review the programs, operations, and fiscal audits of each administering body.

Sec. 812. Consultations With the Congress.

The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this part and the eligibility of countries for benefits from the Facility under this part.

Sec. 813. Annual Reports to the Congress.

(a) *In General.*—Not later than December 31 of each year, the President shall prepare and transmit to the Congress an annual report concerning the operation of the Facility for the prior fiscal year. Such report shall include—

(1) a description of the activities undertaken by the Facility during the previous fiscal year;

(2) a description of any Agreement entered into under this part;

(3) a report on any Funds that have been established under this part and on the operations of such Funds; and

(4) a description of any grants that have been provided by administering bodies pursuant to Agreements under this part.

(b) *Supplemental Views in Annual Report.*—Not later than December 15 of each year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this part by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.

